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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,146	08/20/2003	Vincente Rosa	ARRAY 2	5313
7590	09/03/2004		EXAMINER	
John H. Thomas, P.C. 1561 East Main Street Richmond, VA 23219			MORRISON, NASCHICA SANDERS	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/644,146	ROSA, VINCENTE
	Examiner Naschica S Morrison	Art Unit 3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 August 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 August 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/24/03.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

This is the first Office Action for serial number 10/644,146, Tire Display Apparatus, filed on August 20, 2003. Claims 1-10 are pending.

Specification

The disclosure is objected to because of the following informalities: on page 6, line 8, "types" should be --typed-- and on line 9, "systems" should be --system-- and "allow" should be --allows--. Appropriate correction is required.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 55 and 65.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "18" has been used to designate both lock pins in Fig. 1 and tire in Fig. 2.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the first and second arms being rotatably connected as recited in claim 4 must be shown or the feature canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 7 is objected to because of the following informalities: on line 3 insert -- star-- before "frame". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is rejected because it is unclear whether the combination of the display apparatus and the tire is being claimed or merely the subcombination of the display apparatus. Claim 1 recites the tire functionally in the preamble of the claim, indicating the subcombination is being claimed, yet the applicant recites a further structural limitation to the tire in claim 1 (line 14), indicating the combination is being claimed. For purposes of this Office action, the examiner will assume the **subcombination** is being claimed.

Regarding claims 5 and 6, line 2, the term "they" is indefinite as it is unclear which previously recited subject matter the applicant is referencing.

Regarding claim 10, the word "means" is preceded by the words "bracket" and "post" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,213,297 to Laskowski in view of U.S. Patent 1,682,180 to Merrill. With regards to claims 1-5, 7, 8 and 10, Laskowski discloses a tire display apparatus comprising: a vertical support spine (20), a first arm (12) and a second arm (36), and a star frame (14); the first arm connected on one end to the vertical bracket and on its other end to the second arm; the second arm connected on one end to the first arm and on the other end connected to the star frame; the star frame (14) connected to the second arm (36), the star frame further comprising three telescoping posts (62), each post having a slot (70) for receiving a pin (74) and an open channel (68) adapted to engage a tire bead so as to carry a tire thereon. Laskowski does not disclose display apparatus including a vertical bracket attached to the vertical support spine or the first and second arms comprising a pair of telescoping rods. Merrill teaches a display apparatus comprising: a vertical support spine (53), a vertical bracket (43) attachable to the vertical support spine, a first arm (1, 40) and a second arm (9, 16), and a frame (33); the first arm comprising a first pair of telescoping rods (1, 40) with one rod (40) connected to the vertical bracket (43) and the other rod (1) connected to the second arm (9, 16); the second arm comprising a second pair of telescoping rods (9, 16) with one rod (9) connected to the first arm (1, 40) and the other rod (16) connected to the frame (33); and a hub arm (28, 30) that is telescopically attached to the second arm on the end (16) of the second arm opposite the end connected to the first arm, the

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hub arm further comprising a flanged screw (29) adapted to secure a hubcap onto the hub arm; wherein the first and second arms are permanently fixed and rotatably connected to each other at a substantially 90 degree angle; wherein the first pair of telescoping rods (1, 40) includes a plurality of slots (vertical and horizontal openings within 2 that receive 3 and 40; see Fig. 2) and a pin (3) insertable in the slots. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the display apparatus of Laskowski by substituting the vertical spine, vertical bracket, and first and second arms of Merrill for the vertical spine and first and second arms of Laskowski because one would have been motivated to provide a display apparatus constructed for angular and horizontal adjustment so as to position the tire an any desired position as taught by Merrill (lines 15-26).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laskowski in view of Merrill and further in view of U.S. Patent 3,229,940 to Kagels. With regards to claim 6, Laskowski in view of Merrill discloses the tire display apparatus as applied above, but Merrill does not teach the second pair of telescoping rods including a plurality of slots and a pin. Kagels teaches an apparatus comprising a pair of telescoping rods (10, 11) including a plurality of slots (12) and a pin (13) insertable in the slots. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the second pair of telescoping rods of Merrill to include a plurality of slots and a pin insertable therein because one would have been motivated to provide a means for fixing the adjusted length of the pair of telescoping rod as taught by Kagels.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laskowski in view of Merrill and further in view of U.S. Patent 4,573,587 to Matthews, Jr. (Matthews). With regards to claim 9, Laskowski in view of Merrill discloses the tire display apparatus as applied above, but Laskowski does not teach the star frame including indicia. Matthews teaches a tire display apparatus comprising a bracket (11) including tire indicia (col. 2, lines 33-36). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the star frame of Laskowski to include indicia such as tire bead diameter because one would have been motivated to provide a means for displaying pertinent tire information as taught by Matthews.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

249587 to Clark; 1146417 to Flynn; 1886549 to Howell et al; 1894991 to Hayes; 2252602 to Murphy; 3032273 to Spielman; 3366430 to Diedrich; D252600 to Gibson; 4270721 to Mainor, Jr.; 4932620 to Foy; JP 4367626 to Laskowski; JP 352023300 to Hirano

The above references disclose supports relevant to the present invention.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703)

305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 306-1113.

M
Naschica S. Morrison
Patent Examiner
Art Unit 3632
8/30/04

Ramón O. Ray
RAMON O. RAMIREZ
PRIMARY EXAMINER